

Department of Financial Protection and Innovation

Position Duty Statement

DFPI HRO 203 (Rev. 09-2021)

NAME	EFFECTIVE DATE
CLASSIFICATION TITLE Attorney	POSITION NUMBER 410-XXX-5778-XXX
WORKING TITLE Counsel	DIVISION/OFFICE/UNIT/SECTION Enforcement
BARGAINING UNIT R02	GEOGRAPHIC LOCATION

General Statement: Under the general direction of the Assistant Chief Counsel and with occasional instruction from the Deputy Commissioner, the Attorney is responsible for performing duties as Counsel for the Enforcement Division. Duties include, but are not limited to, the following:

A. SPECIFIC ASSIGNMENTS

ESSENTIAL FUNCTIONS

- 40%** Performs with close supervision the investigation and prosecution of less complicated and sensitive litigation under all the laws under DFPI jurisdiction, consisting mostly of administrative matters and will include research, drafting of pleadings, preparation and argument of motions, discovery, settlement negotiations and conferences, hearings and trials, post-trial proceedings, and appellate level briefs and hearings relating to the administrative matters. Cases will include the issuance of Orders for violations of the law, actions to bar, suspend, revoke, censure and deny companies and individuals that are applying for or have licenses, actions to void loan transactions and to levy administrative penalties and obtain restitution for consumers and investors that have lost funds. Will issue subpoenas to banks and companies to obtain information necessary in the investigation of a case, preparing writs of mandamus and appellate pleadings.
- 20%** Responsible for filing less complicated civil cases in state and federal courts for injunctive relief and where appropriate asset freezes and the appointment of a receiver and before the Office of Administrative Hearings and be responsible for less complicated pretrial, trial and post-trial motions. Motions would include motions to limit testimony and admission of evidence and to compel persons to produce documents and testify in matters. Engage in less complicated administrative and civil discovery, including taking investigative testimony and conducting depositions, preparing and responding to requests for admissions and propounding and answering interrogatories in the less complicated cases. Responsible for all aspects on appeal include preparing writs of mandamus and appellate pleadings in the less complicated cases and will file and argue amicus curiae briefs in civil court on matters impacting the

Department. Will appear before federal Bankruptcy Courts and represent the Department in matters relating to actions brought by the Department.

- 15%** Assists senior staff counsel on larger more complex investigations and civil and administrative matters. Assist law enforcement and other state and federal agencies and assisting senior counsel with discovery issues.
- 15%** Assists other agencies to effectively prosecute persons that violate the laws under the Department's jurisdiction. Prepares referrals for criminal prosecution; assists district attorneys and federal prosecutors in the preparation of criminal cases, and upon request presents criminal cases at preliminary hearings, grand jury hearings, trials, and related proceedings. Assists in less complicated trial, exhibit and witness preparation and legal strategy concerning the criminal case, including taking testimony, and providing expertise in the technical and complicated areas of securities and other laws subject to the Commissioner's jurisdiction. Under close supervision may be responsible for direct and cross examination of witnesses, opening and closing arguments and drafting of points and authorities and jury instructions relevant to the charges relating to the laws under the Department's jurisdiction. Drafts and responds to motions concerning the conduct of the criminal case.
- 5%** Prepares opinions and analyses of the law and facts in less complicated matters and recommends various types of enforcement action. Directs a multi-discipline staff including examiners, investigators and support in directing and conducting less complex and detailed investigations. Takes administrative testimony of witnesses and defendants during investigations and file actions to enforce subpoenas and interrogatories.

MARGINAL FUNCTIONS

- 5%** Performs other job-related duties as required.

B. Supervision Received

The Attorney reports directly to and receives the majority of assignments from the Assistant Chief Counsel; however, direction and instructions may also come from the Deputy Commissioner.

C. Supervision Exercised

None

D. Administrative Responsibility

None

E. Personal Contacts

The incumbent interacts with Investigators, Examiners, Legal support, Programs, Department of Justice, Attorney General, District Attorney's, and various federal/state agencies when completing examinations and investigations at the request of Counsels. Investigations are confidential and sensitive in nature, involving company books & records, financial statements, bank records, and investigative reports. The incumbent interacts frequently with Counsels on every case assigned and as often as 10 times per week depending on the complexity of cases. All other contacts occur on an as needed basis and no more than five times per month.

F. Actions and Consequences

The consequences of not adequately performing the job may lead to:

- Defendants escaping prosecution
- Defendants not receiving appropriate penalties if violations are overlooked
- Consumers not being adequately protected, and
- Harmful consumer products entering the marketplace

This will lead to illegal activity going unchecked. Failure to detect and deter unlicensed and illegal activity negatively impacts the California economy by discouraging investing and use of legitimate licensees' services. Also, the lack of sufficient supervision limits DFPI's ability to fulfill the DFPI's intent to discover and discourage illegal and fraudulent activity, to improve accountability in the financial system, and protect consumers from improper financial services practices. The inability to check unlicensed illegal activity undermines the DFPI's ability to regulate state-licensed professionals in order to provide accessibility to a fair and secure financial services industry.

G. Functional Requirements

The incumbent works 40 hours per week in an office setting, with artificial light and temperature control. The use of a personal computer, telephone, copier and fax machine is essential to the duties of this position. The position requires bending and stooping to retrieve files, sitting and standing consistent with office work, and light lifting of no more than 25 pounds occasionally. The position requires answering telephones; receiving verbal information from outside sources; and understanding verbal instruction.

H. Other Information

Counsel is expected to work less-complex cases, which may include civil cases, appellate proceedings, bankruptcy, co-chairing criminal actions, and negotiating successful resolutions of actions, while working closely with supervisors and/or colleagues.

Counsel is expected to word towards being able produce quality work product requiring minimal editing that demonstrates independent thinking and judgment in the application of facts, evidence and law; and orally communicate information and legal principles, facts and positions effectively, convincingly and accurately.

Counsel is expected to participate in investigative teams, hearings, civil actions, multi-state task forces; including cooperating with other regulatory agencies; as well as internal project groups, task forces, and Program related matters.

This position may require traveling to attend administrative hearings and/or civil and criminal court proceedings across the state (County, State and Federal), other locations, and occasional travel to conferences, meetings, and training events. Travel is primarily done by driving, but also includes periodic air travel and overnight travel.

CONFLICT OF INTEREST

This position is subject to Title 16, section 3830 of the California Code of Regulations, the Department of Financial Protection and Innovation's Conflict of Interest Regulations. The incumbent is required to submit a Statements of Economic Interests (Form 700) within 30 days of assuming office, annually by April 1st and within 30 days of leaving office.

I have read and understand the duties listed above and I can perform these duties with or without reasonable accommodation. (If you believe reasonable accommodation is necessary, discuss your concerns with the hiring supervisor. If unsure of a need for reasonable accommodation, inform the hiring supervisor, who will discuss your concerns with the Health & Safety analyst.)

Employee Signature

Date

Employee's Printed Name, Classification

I have discussed the duties of this position with and have provided a copy of this duty statement to the employee named above.

Supervisor Signature

Date

Supervisor's Printed Name, Classification